



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

5 Post Office Square, Suite 100
BOSTON, MA 02109-3912

July 27, 2012

Mary A. Colligan
Assistant Regional Administrator
Protected Resources Division
National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930

Re: Reissuance of the NPDES Permit for the EP Newington Energy Facility,
Newington, New Hampshire, Permit No. NH0023361 - Endangered Species Act
Correspondence

Dear Assistant Regional Administrator Colligan:

The U.S. Environmental Protection Agency, Region I, New England (EPA) is preparing to reissue the NPDES permit for the Newington Energy Facility (NEF). The fact sheet and draft permit were placed on public notice on July 20, 2012. The closing date for public comment is August 18, 2012. The public notice, draft permit and all other pertinent documents are available on EPA's website (<http://www.epa.gov/region1/npdes/permits/draft/2012/draftnh0023361permit.pdf>). The purpose of this letter is to present EPA's assessment of the potential impact(s) of this permit action on protected species.

Section 7(a) of the Endangered Species Act of 1973, as amended (ESA) grants authority to and imposes requirements upon Federal agencies regarding endangered or threatened species of fish, wildlife, or plants ("listed species") and habitat of such species that has been designated as critical ("critical habitat"). The ESA requires every Federal agency, in consultation with and with the assistance of the Secretary of Interior, to insure that any action it authorizes, funds, or carries out, in the United States or upon the high seas, is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat. The United States Fish and Wildlife Service (USFWS) administers Section 7 consultations for freshwater species. The National Marine Fisheries Service (NMFS) administers Section 7 consultations for marine species and anadromous fish.

The federal action being considered in this case is EPA's proposed draft NPDES permit to the NEF. The draft permit is intended to replace the existing NPDES permit in governing the electric generation facility.

NEF, located in Newington, New Hampshire, is a 525 megawatt (MW) natural gas and #2 fuel oil fired, combined cycle electrical generating station. The Station is an "intermediate" facility, having an average yearly capacity utilization rate of 56.8% for 2011. NEF withdraws water from and discharges to the lower Piscataqua River. A mechanical draft cooling tower is used to cool and recirculate non-contact condenser cooling water, thus reducing the amount of water removed from the river compared to once-through cooling systems. The facility intakes a maximum of 10.8 million gallons per day (MGD) of water from the Piscataqua River for cooling tower make-up.

The Piscataqua River is high value habitat for a variety of marine and estuarine species, and serves as the only conduit between the Gulf of Maine and Great Bay Estuary. The River is classified as a Class B water body pursuant to the State of New Hampshire Surface Water Quality Regulations (N.H. Code of Administrative Rules, PART Env-Wq 1703.01) and N.H. RSA 485-A:8. Class B waters are "considered as being acceptable for fishing, swimming and other recreational purposes and, after adequate treatment, for use as water supplies." (RSA 485-A:8, II)

EPA has reviewed the federal endangered or threatened species of fish, wildlife, or plants to determine if any listed species might potentially be impacted by the re-issuance of this NPDES permit. The two listed species that have the potential to be present in the vicinity of Newington Energy are the shortnose sturgeon (*Acipenser brevirostrum*) and the Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*).

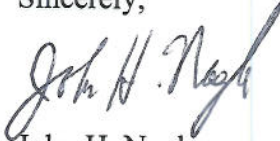
Based on the expected distribution of the species, EPA has determined that there are no shortnose sturgeon in the action area and that the reissuance of the permit will have no effect on the species. Therefore, consultation under Section 7 of the ESA with NMFS for shortnose sturgeon is not required.

Based on the analysis of potential impacts to Atlantic sturgeon presented in Attachment 1 of this letter, EPA has determined that impacts to Atlantic sturgeon from the intake and discharge at Newington Energy Facility, if any, will be insignificant or discountable. Therefore, EPA has judged that a formal consultation pursuant to Section 7 of the ESA is not required. EPA is seeking concurrence from NMFS regarding this determination through the information in this letter, as well as supporting information contained in the fact sheet and the Draft Permit.

Attachment 1 provides the complete discussion of EPA's Endangered Species Act assessment as it relates to the renewal of Newington Energy Facility's NPDES permit.

Reinitiation of consultation will take place: (a) If new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered in the consultation; (b) If the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the consultation; or (c) If a new species is listed or critical habitat is designated that may be affected by the identified action. Please contact Permit Writer Sharon DeMeo at (617) 918-1995 with any questions related to this letter.

Sincerely,

A handwritten signature in dark ink, appearing to read "John H. Nagle". The signature is fluid and cursive, with the first name "John" being the most prominent.

John H. Nagle
Environmental Scientist/Biologist
Office of Ecosystem Protection

cc: Sharon DeMeo, EPA
Christine Vaccaro, NMFS

